

1  
2  
3  
4  
5  
6  
7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 PETRA RUSSELL,

11 Plaintiff,

12 v.

13 WADOT CAPITAL, INC., et al.,

14 Defendants.

CASE NO. C22-0531JLR

ORDER

15 Before the court is Plaintiff Petra Russell's motion to amend her complaint. (Mot.  
16 (Dkt. # 29); *see* Prop. 2d Am. Compl. (Dkt. # 29-2).) None of the eleven current named  
17 Defendants responded to Ms. Russell's motion by the October 24, 2022 deadline to file  
18 opposition briefs. (*See* Dkt.); *see* Local Rules W.D. Wash. LCR 7(d)(3) (stating that  
19 opposition papers, if any, shall be filed and served not later than the Monday before the  
20 noting date for the motion).

21 Federal Rule of Civil Procedure 15(a)(2) states that "[t]he court should freely give  
22 leave [to amend the complaint] when justice so requires." Fed. R. Civ. P. 15(a)(2).

1 Courts consider five factors when assessing a motion for leave to amend: (1) bad faith,  
2 (2) undue delay, (3) prejudice to the opposing party, (4) futility of amendment, and  
3 (5) whether the party has previously amended its pleading. *Allen v. City of Beverly Hills*,  
4 911 F.2d 367, 373 (9th Cir. 1990) (citing *Ascon Props., Inc. v. Mobil Oil Co.*, 866 F.2d  
5 1149, 1160 (9th Cir. 1989)). Prejudice to the opposing party is the “touchstone of the  
6 inquiry under [R]ule 15(a).” *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048,  
7 1052 (9th Cir. 2003). “Absent prejudice, or a strong showing of any of the  
8 remaining . . . factors, there exists a *presumption* under Rule 15(a) in favor of granting  
9 leave to amend.” *Id.* (emphasis in original). “Except for motions for summary judgment,  
10 if a party fails to file papers in opposition to a motion, such failure may be considered by  
11 the court as an admission that the motion has merit.” Local Rules W.D. Wash. LCR  
12 7(b)(2).

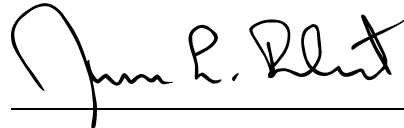
13 Here, Ms. Russell seeks to add Jared Ekdahl and National Capital Partners, Inc. as  
14 Defendants and to replace Defendant Jane Doe Lindstrom with named Defendant Tina  
15 Lindstrom. (*See generally* Mot.; Prop. 2d Am. Compl.) In light of the presumption in  
16 favor of granting leave to amend, and taking Defendants’ failure to oppose Ms. Russell’s  
17 motion as an admission that the motion has merit, the court GRANTS Ms. Russell’s  
18 motion to amend (Dkt. # 29). Ms. Russell shall file her second amended complaint on  
19 the court’s docket by no later than **November 1, 2022**.

20 //

21 //

22 //

1 Dated this 25th day of October, 2022.

2  
3 

4 JAMES L. ROBART  
5 United States District Judge  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22